

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CYTOLOGIX CORPORATION,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 04-CV-11783-RWZ

STIPULATION AND [PROPOSED] ORDER MODIFYING PROTECTIVE ORDER

IT IS HEREBY STIPULATED, subject to the approval of the Court, that the Stipulated Protective Order entered in this case (see Docket Nos. 34 & 41) is modified as follows:

A party producing confidential source code may designate such source code as "SOURCE CODE CONFIDENTIAL." Such designated material shall be subject to the restrictions set forth in the Stipulated Protective Order with respect to RESTRICTED CONFIDENTIAL INFORMATION, and shall also be subject to the following restrictions set forth below.

As used herein, "Expert Materials Containing Source Code Confidential Information" means written materials that include, reflect, or describe information designated as SOURCE CODE CONFIDENTIAL (such expert reports and other writings generated by experts) but where the inclusion of SOURCE CODE CONFIDENTIAL information is limited to those portions that are reasonably necessary for the preparation of expert reports or expert declarations

(i.e., portions reasonably expected to be quoted or cited in such reports or declarations, but not lengthy blocks of the source code).

1. SOURCE CODE CONFIDENTIAL information will be produced on CD-ROM. To the extent that more than one qualified expert may need access to the SOURCE CODE CONFIDENTIAL information, an appropriate number of duplicate CD-ROMs shall be produced.

2. Information designated as SOURCE CODE CONFIDENTIAL shall remain on the premises of outside counsel of record, and may not be electronically duplicated, either in whole or in part. The inspection of the SOURCE CODE CONFIDENTIAL information by any qualified expert shall take place on the premises of outside counsel of record. Notwithstanding the foregoing, Expert Materials Containing Source Code Confidential Information may be:

(a) kept in the custody of qualified experts in a secure location, and (b) electronically duplicated in word processing or PDF form as is reasonably necessary for the preparation of expert reports or expert declarations.

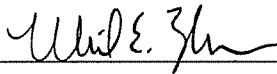
3. Information designated as SOURCE CODE CONFIDENTIAL may not be transmitted by e-mail, over any public network, or by any other electronic means. Notwithstanding the foregoing, Expert Materials Containing Source Code Confidential Information may be transmitted by reasonably secure e-mail or facsimile as is reasonably necessary for the preparation of expert reports or expert declarations, so long as the materials so transmitted must not be in machine-readable form (e.g., PDF documents must be optically scanned, and not directly converted from the native format of the underlying application).

4. Notwithstanding paragraph 16 of the Stipulated Protective Order, all copies of SOURCE CODE CONFIDENTIAL information shall be returned to the producing party within

twenty days of the termination of this action (including any and all appeals). All material that includes, reflects, or describes information designated as SOURCE CODE CONFIDENTIAL shall either be returned to the producing party or destroyed within twenty days of the termination of this action (including any and all appeals).

CYTOLOGIX CORPORATION

VENTANA MEDICAL SYSTEMS, INC.



Michael E. Zeliger (BBO #633654)
KIRKPATRICK & LOCKHART
NICHOLSON GRAHAM LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111
(617) 261-3100



Peter E. Gelhaar (BBO #188310)
Michael S. D'Orsi (BBO #566960)
DONNELLY, CONROY & GELHAAR, LLP
One Beacon Street, 33rd Floor
Boston, MA 02108
(617) 720-2880

Ron E. Shulman (*pro hac vice*)
Roger J. Chin (*pro hac vice*)
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304
(650) 493-9300

Jeffrey N. Danis (BBO# 113880)
VENTANA MEDICAL SYSTEMS, INC.
1910 Innovation Park Drive
Oro Valley, Arizona 85737
(520) 229-3965

IT IS SO ORDERED:

Dated: _____

HON. RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE